IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

WEDNESDAY, THE SECOND DAY OF MARCH
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE C.V.RAMULU

WRIT PETITION NO : 24896 of 1996

Between:

Gulam Mohiuddin, S/o. Abu Mohd. Mohiuddin,
aged 49 years, Ex-Inspector Auditor,

R/o. H.No. 9-4-87/6/3, Yousuf Mansion,

Towli Chowki-Ooaysi Colony,
Mehdipatnam, Hyderabad.

..... PETITIONER

AND

1. Andhra Pradesh State Wakf Board,

Rep. by its Secretary, Razzack Manzil,

Opp. Public Gardens, Nampally, Hyderabad.

2. Special Officer, Wakf Board,
Razzack Manzil, Opp. Public Gardens,
Nampally, Hyderabad.

3. Enquiry Officer, Wakf Board,
Razzack Manzil, Opp. Public Gardens,
Nampally, Hyderabad.

4. Mohd. Rauf Ahmed,
Enquiry Officer, A.P.S.W.B., Hyderabad.

5. Laiq Ali Khan, Special Officer,
Razzack Manzil, Opp. Public Gardens,
Nampally, Hyderabad.

....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the

circumstances stated in the Affidavit filed herein the High Court may be pleased to issue a writ, order or directions declaring the Memo F.No.E. 1/3/93-Supply. dt.24-05-1994 dismissing the petitioner from the service as illegal, arbitrary, bias, violative of Articles 14, 16, 21 and 309 of Constitution of India by giving all consequential benefits and monetary benefits, in the interest of justice.

Counsel for the Petitioner: MR.M.V.RAJA RAM

Counsel for the Respondent Nos.1 to 3: MR.A.M.QURESHI

Counsel for the Respondent Nos.4 & 5: None appeared

The Court made the following:

ORDER:

This writ petition is filed seeking writ of Mandamus declaring the Memo F.No.E.1/3/93-Supply dated 24-05-1994 issued by the first respondent dismissing the petitioner from the service of the Wakf Board, as illegal and arbitrary.

2. It is the case of the petitioner that he was initially appointed as Lower Division Clerk and subsequently promoted as Inspector Auditor and at the relevant point of time he was working as Inspector Auditor in the office of the Wakf Board at Warangal. While so, the petitioner received proceedings dated 04-04-1994 wherein it was stated he was suspended from service pending enquiry under the Regulations 31 (1) of Andhra Pradesh Wakf Regulations, 1963 on 07/04/1993 and the suspension period has been extended by the first respondent for a period of 3 months beyond 05-04-1994 or till official orders passed by the competent authority in his proceedings dated 03/04/1994. The proceedings dated 04-04-1994 is in the nature of show cause notice alleging that there was four charges levelled against him and an enquiry officer was appointed and the enquiry was concluded and the punishment of dismissal was proposed. Since he had not received any communication between 07-04-1993 and 04-04-1994 he requested the second respondent to furnish certain documents for submitting explanation. No opportunity was given to him. Thereafter, the final proceedings were issued dismissing him from service on 24-04-1994. Aggrieved by the same he filed an appeal before the second respondent-Board and the Board vide its letter dated 16-05-1994 rejected the same. Hence, this writ petition.

3. Learned counsel for the petitioner raised three grounds challenging the impugned proceedings.

1. The charges levelled against the petitioner are vague and not specific;
2. No opportunity was given to the petitioner to participate and no documents as sought for by the petitioner were supplied to him;
3. The disciplinary authority and Appellate Authority are one and the same, therefore the appellate order is nonest in law.

For the above grounds the impugned proceedings is liable to be set aside and the petitioner is entitled for being reinstated into service with all arrears of salary, service seniority etc.

4. The Board has filed detailed counter and denied the allegations made by the petitioner. Learned counsel for the respondents has supported the impugned proceedings and stated that the charges are specific and are not vague. Every opportunity was given to the petitioner and every communication was sent to the petitioner to the address furnished by him. There was no response and all those communications have turned unserved. Therefore, the question of not supplying documents and not giving opportunity also does not arise. The Appellate Authority and the Disciplinary Authority is the Special Officer, and at the relevant point of time the Board was superseded and the Board appointed the person in-charge. Under those circumstances, the Board had taken a decision, may be the Special Officer was the person in-charge of the Board, that itself does not vitiate the order passed by the Appellate Authority.

5. I have given earnest consideration to the submissions made by both the parties and I have gone through the impugned proceedings as well as other material made available on record. I am of the opinion that prima facie no explanation of any kind offered by the petitioner as to his whereabouts atleast from 07.4.1993 till 06.5.1994. Neither in the explanation offered by him to the show cause notice nor in the grounds of appeal or in the writ petition affidavit the petitioner has explained as to his whereabouts, except saying that notices were served on the address available with the office and not place of residence of the petitioner. The petitioner has been keeping his whereabouts unrevealed to any of the authorities for the period from

March 1993 till April 1994.

6. Now, coming to the charges. The charges are specific in nature. Neither they are vague nor uncertain. It is stated that the petitioner did not collect the revenues of the Wakf supposed to be collected by him. He had collected only a meagre amount of Rs.15,820-25 ps. from September 1988 to March 1993 and allowed to pile up huge arrears of Wakf fund to a tune of Rs.1,62,334/- till the end of March 1993. This charge cannot be said to be vague or unspecific.

7. The Special Tahsildar (LG) Collectorate office, Warangal sent a letter to the Board in the shape of a complaint stating that 15 cases were decreed in favour of Wakf Board in the Special Tribunal Warangal and the same were not executed due to dereliction of duties of the petitioner. The petitioner did not attend to duties, therefore the Special Tahsildar had to attend the office of the delinquent only to find that whereabouts of the delinquent officer were not known. One Mr.M.A.Quddus, Inspector Auditor from Karimnagar District was placed as in-charge of Warangal District. Mr.M.A.Quddus reported that the whereabouts of the petitioner was not known and he was found missing and therefore he could not take up the charge since the almyrah was under lock and key. Further, Mr. M.A. Quddus, Inspector Auditor reported that the petitioner has been absconding and the same has been published in the 'SIASAT' on 21.6.1993 and also in Eenadu, Warangal edition on 21.6.1993 intimating that the petitioner was kept under suspension in the public interest. In spite of all these, there was no response from the petitioner. Even at this stage there is no explanation from the petitioner as to his whereabouts during that period. Hence, an *ex parte* enquiry was conducted and even he did not submit any proper explanation to the show cause notice. Thus, the final order of dismissal dated 24.5.1994 was passed. Therefore, it cannot be said that no opportunity was given to the petitioner. The petitioner was absent and absconding, missing from the place and therefore he cannot blame the disciplinary authority for conducting an *ex parte* enquiry. Even at this stage the petitioner is trying to conceal the fact of his whereabouts during the period from 07.04.1993 till April 1994.

8. In so far as the contention of the learned counsel for the petitioner that the

disciplinary authority itself has taken up the appeal and disposed making the appeal nugatory is concerned, I am of the opinion that when the Board is superseded and the person in-charge was appointed, he is fully empowered to dispose of the appeals by sitting himself as a Board of the Wakf. Whether it is Special Officer or any Officer it does not make any difference. Apart from this it is not asserted anywhere that the Special Officer who passed the impugned proceedings dated 24.5.1994 and the order of the Board communicated on 16.5.1994 are passed by one and the same person. Therefore, I am of the opinion that the Appellate Authority has not committed any error in disposing of the matter as person in charge and while sitting as a Board. The petitioner also has not made any allegations of *mala fides* or unavoidable prejudice has been caused to him. For the above reasons, the writ petition is devoid of merits and liable to be dismissed.

9. The writ petition is, accordingly, dismissed. No order as to costs.

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C.V.RAMULU,J.

Date: 02nd March 2005.

BSB

ASSISTANT REGISTRAR

// TRUE COPY //

SECTION OFFICER

To

1. The Secretary, Andhra Pradesh State Wakf Board,

Razzack Manzil, Opp. Public Gardens, Nampally, Hyderabad.

2. The Special Officer, Wakf Board,
   Razzack Manzil, Opp. Public Gardens,
   Nampally, Hyderabad.

3. The Enquiry Officer, Wakf Board,
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5. Laiq Ali Khan, Special Officer,
   Razzack Manzil, Opp. Public Gardens,
   Nampally, Hyderabad.

6. Two CD copies

7. 1 CC to MR.QURESHI

*Form-NIC-OGS/WP{**KRD**}*